

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**TQP development, LLC**

**Plaintiff,**

**v.**

**Allianz Life Insurance Company of North  
America, *et al.***

**Defendants.**

**Civil Action No. 2:11-CV-00249**

**JURY TRIAL DEMANDED**

**PLAINTIFF TQP DEVELOPMENT, LLC'S ANSWER  
TO DEFENDANT STATE FARM MUTUAL INSURANCE  
COMPANY'S AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Plaintiff, TQP Development, LLC ("TQP"), answers the Counterclaims of Defendant State Farm Mutual Insurance Company ("State Farm") (Dkt. No. 146) filed September 19, 2011, by corresponding paragraph number as follows:

**COUNTERCLAIMS**

72. To the extent that State Farm purports to incorporate the allegations of its Answer and Affirmative Defenses, such incorporation is improper and requires no response. Subject to the foregoing, TQP denies the merits of State Farm's denials of liability, defenses and affirmative defenses, and TQP denies all averments in State Farm's Answer, Affirmative Defenses, and Counterclaims that are inconsistent with the relief requested by TQP.

**THE PARTIES**

73. Admitted.

74. TQP admits that it is a limited liability company with its principle place of business in Marshall, Texas.

## **JURISDICTION AND VENUE**

75. TQP admits that this Court has subject matter jurisdiction regarding State Farm's infringement of the asserted patent. TQP admits State Farm seeks declaratory relief. However, TQP denies that State Farm is entitled to such relief. Except as so admitted, TQP denies the remaining allegations in paragraph 75.

76. TQP admits that this Court has subject matter jurisdiction regarding State Farm's infringement of the asserted patent. Except as so admitted, TQP denies the remaining allegations in paragraph 76.

77. Admitted.

78. Admitted.

79. TQP admits there is a real controversy concerning State Farm's infringement of the asserted patent. Except as so admitted, TQP denies the remaining allegations in paragraph 79.

## **FIRST COUNTERCLAIM**

### **(Declaratory Judgment of Non-Infringement)**

80. To the extent that State farm purports to incorporate the allegations of its Answer, Defenses, and Counterclaims, such incorporation is improper and requires no response. Subject to the foregoing, TQP denies the merits of State Farm's denials of liability, defenses, and affirmative defenses, and TQP denies all averments in State Farm's Answer, Affirmative Defenses, and Counterclaims that are inconsistent with the relief sought by TQP.

81. Denied.

82. TQP admits State Farm seeks a judicial determination and declaration that it does not infringe the '730 Patent. However, TQP denies that State Farm is entitled to any such relief.

83. TQP admits that State Farm requested this Court declare this case to be exceptional, and award State Farm its reasonable attorney's fees, costs and expenses. However, TQP denies State Farm is entitled to any such relief.

84. TQP denies that State Farm is entitled to any relief.

## **SECOND COUNTERCLAIM**

### **(Declaratory Judgment of Invalidity)**

85. To the extent that State farm purports to incorporate the allegations of its Answer, Defenses, and Counterclaims, such incorporation is improper and requires no response. Subject to the foregoing, TQP denies the merits of State Farm's denials of liability, defenses, and affirmative defenses, and TQP denies all averments in State Farm's Answer, Affirmative Defenses, and Counterclaims that are inconsistent with the relief sought by TQP.

86. Denied.

87. TQP admits State Farm seeks a judicial determination that the claims of the '730 patent are invalid. However, TQP denies that State Farm is entitled to any such relief.

88. TQP admits that State Farm requested this Court declare this case to be exceptional, and award State Farm its reasonable attorney's fees, costs and expenses. However, TQP denies State Farm is entitled to any such relief.

89. TQP denies that State Farm is entitled to any such relief.

## **PRAY FOR RELIEF**

State Farm's Prayer for Relief is an averment to which no responsive pleading is required pursuant to Federal Rule of Civil Procedure 8(d) and is therefore denied.

**DEMAND FOR JURY TRIAL**

State Farm's Jury Demand is an averment to which no responsive pleading is required pursuant to Federal Rule of Civil Procedure 8(d) and is therefore denied.

DATED September 28, 2011.

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF  
TQP DEVELOPMENT, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile, and/or first class mail on this date

\s/ Hao Ni